

Message

From: Fullagar, Jill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7BA061353C314B40A14A8BE1EE382AE3-GABLE, JILL]
Sent: 10/24/2018 5:09:53 PM
To: Hunter, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32905162cc58495da107db89c7dea903-Hunter, Chr]
Subject: RE: FYI - short talking points on OR 303d

Hi Chris,

Personal Privacy / Ex. 6

Thanks for the info. Please just keep me posted, and I'll keep working on the decision docs on this end. Dan did tell me he would talk to the RA, but I didn't get a schedule for that piece either. I'll let you know if anything shakes loose here. I'm in tomorrow, out Friday, and back next week. Thanks.

jill

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From: Hunter, Christopher
Sent: Wednesday, October 24, 2018 7:16 AM
To: Fullagar, Jill <Fullagar.Jill@epa.gov>
Subject: FYI - short talking points on OR 303d

Hi Jill,

As I said in my voicemail, John's meeting was cancelled, so he didn't get a chance to use them, but here is what we sent up the chain on Monday.

Talking Points on OR 303(d) list

- Faced with a Notice of Intent to Sue (NOI) for failure to take a mandatory action, Region 10 would like to finalize its action on the Oregon 2012 303(d) list, which the State submitted in November 2014.
- This action will involve EPA, with State support and RA concurrence, adding a large number of waters to the State's list.

Deliberative Process / Ex. 5

Attorney Client / Ex. 5

- **BACKGROUND:** More than any other State, Oregon has faced challenges in implementing its 303(d) listing program and, for years, has been unable to complete the listing process without significant EPA support.

- OR has recently done a total program overhaul, acquired a new database, and hired new staff to form a listing team (they previously had less than 1 FTE for listing). EPA has provided HQ and contractor assistance to help OR select a new database and geographic platform to track their “waterbody assessment units” and helped the State geo-reference its WQS. EPA is engaging with OR on listing methodology revisions and a stakeholder engagement process. OR is also undertaking its legislatively-required peer review process for methodology updates. EPA expects OR to submit a complete list catching up to the 2018 cycle to be submitted in 2019.
- In December 2016, the Region responded to the State’s 2012 list submission by partially approving/partially disapproving and identifying 1054 waters to add to the State’s list.
 - 714 were due to an adverse decision magistrate’s decision, which was later adopted by the district court, that led to the overturning of EPA’s approval of temperature TMDLs for more than 700 Oregon waterbodies.
- The Region also requested data and comments (while deferring action) on potential biological/aquatic life use impairments for one coastal segment.
 - **Attorney Client / Deliberative Process / Ex. 5**
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- We would be happy to send you a briefing paper with more information.
- WHERE WE ARE NOW: At the request of the RA, the Regional water program has worked with the State to finalize and reach agreement on the added waters, and has reduced the number of waters added to 999 (285 + the 714 court-related segments). The State does not object to these waters being added to the 2012 303(d) list. OWOW agrees with the Region’s recommendation to close out the process of adding these 999 waters.

Deliberative Process / Ex. 5

- In August, after the most recent briefing with the RA, the Center for Biological Diversity (CBD) sent a NOI to sue based on EPA’s failure to take final action on the 2012 303(d) list.

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- Ideally, EPA would finalize the list as soon as possible to attempt to moot the mandatory-duty litigation challenge and to allow ODEQ to move forward with development of their 2014-2018 lists.

Attorney Client / Ex. 5